

General Information Letter: A fee owed to a collection agency may be added to the amount of tax due and collected in the same manner as the tax, under 20 ILCS 2505/2505-400.

September 17, 2007

Dear:

Your letter dated August 16, 2007, to COMPANY, Inc., has been forwarded to me for response. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

I have spoken with a "Mr. Z" (he sometimes refers to himself as "Mr. Y") and a "Miss X" of your offices. This letter follows those conversations and the information shared during those conversations.

My wife and I owe the Illinois Department of Revenue (IDOR) certain back taxes for tax year 2005. The last correspondence I received from the Illinois Department of Revenue stated that the amount owed was \$3,391.20, inclusive of all interest (\$139.38) and penalties (\$413.82). We received that notice on May 17, 2007. We were prepared to pay that amount.

Unfortunately, the IDOR transferred our account to your company before we paid it. We received one or more phone calls from "Mr. Z," followed by your letter of June 22, 2007. Surprisingly, according to that letter the amount owed rose from the amount stated by the IDOR less than a month earlier to \$4,049.08. You cited additional interest of \$43.92; however, you also claimed a "Collection Fee" of \$613.96.

During one of our several telephone conversations, I questioned "Mr. Z" about the authority for this "Collection Fee." He agreed to research your firm's authority for charging that amount and promised to get back to me; however, he never did so. Several weeks ago I called to again ask him about that authority. In the interim I had contacted the IDOR, which confirmed that indeed the liability had been transferred to your company for collection; however, the IDOR did not state that there was any specific authority for the "Collection Fee" other than as provided by Illinois statute. I reviewed the Illinois statutes, and could find no authority for any such fee. In fact, he statute I read stated that outside collection agencies may be compensated solely through contingency agreements with the State of Illinois; it said nothing about charging debtors an additional fee.

When I recently spoke with your office, I was directed to a "Miss X" as being able to cite the authority for the charge. "Miss X," however, could cite me no such authority. Instead, she simply stated, generally, that a law had been passed allowing for collection by outside agencies. Indeed I have read that statute, and I have no quarrel with your company collecting this tax liability. I still do not see any authority for the extra charge, though. Again, the statutes I have looked at provide for different payment

arrangements.

Based on the above, I am herewith sending the payment for taxes, penalty and interest as established by Illinois law (\$3,435.12, inclusive of the additional interest you cite). The remaining amount claimed by your office, \$613.96, I dispute, and will continue to dispute until you withdraw the charge, or you provide me with the authority for making the charge. If this matter is not resolved in one of those two ways in the near future, we may bring an action for a court declaration of your respective rights concerning the claimed charge.

Response

The statutory authority for the collection fee is contained in Section 2505-400(a) of the Civil Administrative Code (Department of Revenue Law) (20 ILCS 2505/2505-400), which provides:

The Department has the power to contract for collection assistance on a contingent fee basis, with collection fees to be retained by the collection agency and the net collections to be paid to the Department. In the case of any liability referred to a collection agency on or after July 1, 2003, any fee charged to the State by the collection agency shall be considered additional State tax of the taxpayer imposed under the Act under which the tax being collected was imposed, shall be deemed assessed at the time payment of the tax is made to the collection agency, and shall be separately stated in any statement or notice of the liability issued by the collection agency to the taxpayer.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax